

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JANET MONGE

Plaintiff,

v.

UNIVERSITY OF PENNSYLVANIA,
et al.

Defendants.

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Civil Action No: 22-cv-02942-GEKP

**DEFENDANT, HYPERALLERGIC MEDIA, INC.’S MOTION TO DISMISS
PLAINTIFF’S AMENDED COMPLAINT PURSUANT TO F.R.C.P. 12(b)(6)**

Defendant, Hyperallergic Media, Inc., respectfully moves this Honorable Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for an Order dismissing plaintiff’s Amended Complaint against it. In support of this Motion, Hyperallergic Media, Inc. respectfully refers the Court to the accompanying Memorandum of Law, and further avers as follows:

1. Plaintiff, Janet Monge, initiated this multiple-count action on May 20, 2022 pursuant to her Complaint that was filed in the Philadelphia Court of Common Pleas against Defendants University of Pennsylvania, Amy Gutmann, Wendell Pritchett, Kathleen Morrison, Deborah Thomas, & Christopher Woods, Paul Mitchell, Billy Penn, Maya Kasutto, The Philadelphia Inquirer, PBC, Abdul Aliy Muhammad & Jenice Armstrong, The New Yorker, Heather Ann Thompson, ESPN, INC. d/b/a Andscape, Nicole Froio & Linn Washington, The Association of Black Anthropologists, The Society of Black Archaeologists, The Guardian Media Group d/b/a The Guardian, Ed Pilkington, Daily Mail and General Trust, PLC d/b/a Daily Mail, Adam Schrader, Slate,

Elain Ayers, NYP Holdings, Inc. d/b/a New York Post, Jackson O'Bryan, Teen Vogue, Ezra Lerner, Hyperallergic Media ("Hyperallergic Media, Inc.", "moving Defendant"), Kinjal Dave & Jake Nussbaum, Smithsonian Magazine, Nora McGreevy, Al Dia News, Brittany Valentine, New York Times, Co., and Michael Levenson, alleging defamation, defamation by implication, false light, and civil aiding and abetting.

2. Defendant, Hyperallergic Media, Inc., filed Preliminary Objections to Plaintiff's Complaint on June 21, 2022.

3. Plaintiff filed an Amended Complaint on June 22, 2022, adding as Defendant, The American Anthropological Association, and omitting The Association of Black Anthropologists and Smithsonian Magazine as Defendants in this matter.

4. Defendant, Hyperallergic Media, Inc., filed Preliminary Objections to Plaintiff's Amended Complaint on June 27, 2022.

5. On July 27, 2022, Defendant Nora McGreevy filed a Notice of Removal of this action to Federal Court based on the Federal Officer Removal Statute under 28 U.S.C. §1442(a)(1).

6. This action arises from alleged defamatory statements published about Plaintiff as a result of her work with human remains recovered from the MOVE bombing in Philadelphia, Pennsylvania.

7. Plaintiff is now bringing the following counts against all defendants: (Count I) defamation, (Count II) defamation by implication, (Count III) false light, and (Count IV) civil aiding and abetting.

8. As concerns Defendant Hyperallergic Media, Inc., Plaintiff claims that "[o]n October 31, 2021, Hyperallergic published the article []"How the Possession of

Human Remains Led to a Public Reckoning at the Penn Museum,” authored by [] Kinjal Dave and Jake Nussbaum.” (See Plaintiff’s Amended Complaint, ¶ 161(j).)

9. Plaintiff avers that “[l]ike its predecessors, the article details the aftermath of the media firestorm, but falsely blames Dr. Monge for a racially motivated investigation of the bone fragments, stating [‘]Consuella did not consent to Monge’s continued use of her daughter’s remains for research. Even after those objections, Monge used Tree Africa’s remains for teaching.[’]” (See Plaintiff’s Amended Complaint, ¶ 161(j).)

10. Plaintiff’s Amended Complaint fails to state a claim upon which relief can be granted and must be dismissed with prejudice pursuant to Rule 12(b)(6).

11. For the above reasons and the reasons set forth in the attached Memorandum of Law, which is hereby incorporated by reference, plaintiff has failed to state a claim upon which relief may be granted, and her causes of action must therefore be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

WHEREFORE, defendant, Hyperallergic Media, Inc. respectfully requests that this Honorable Court dismiss Plaintiff’s Amended Complaint as to Hyperallergic Media, Inc., with prejudice.

Respectfully submitted,

THOMAS PASCHOS & ASSOCIATES, P.C.

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